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REMARKS

The present application has 13 claims, with Claims 1 and 12 being independent claims. Claims 1-3 and 10-13 are rejected and Claims 4-9 are objected to. Claims 11 and 13 are amended herein. Claim 11 is now an independent claim.

Claim Objections:

Claims 11 and 13 were objected to under 37 C.F.R. §1.75(c) as being in improper form. Claim 11 thus has been redrafted in independent format and Claim 13 has been amended. The Applicant does not consider these amendments to be limiting the scope of the claims in any manner.

35 U.S.C. § 102:

Claims 1-3 and 10-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by German Patent No. 4439728. The reference was described as disclosing a device and method for grouping articles with leading and trailing spacer elements (1, 1') arranged to move along a first predetermined path (4), each of the spacer elements being adapted to engage at least one article (3) and convey the articles through the working reach of the device, and an adjustment means (control cams 2) to adjust the device between a first mode in which both spacer elements follow the first predetermined path (4) and a second mode in which the leading spacer element follows a second predetermined path (16).

The Applicant respectfully traverses the rejection of independent Claim 1 and the dependent claims thereon. As described above, Claim 1 specifically calls for two modes: the first mode in which the spacer elements successively engage an article group and a second mode

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in which the spacer elements simultaneously engage an article group. The cited reference, however, shows no such arrangement.

First, to the extent that elements 1, 1' are considered to be the "spacer elements", then the reference clearly fails to describe a leading and a trailing element. Rather, elements 1, 1' are parallel to one another and apparently work in unison. *See Figs 5-8.*

To the extent that each element 1, 1' is considered to have a pair of spacer elements (with the element having the projection (14) being the trailing spacer element), then reference still does not show two modes of operation. As the units 5 travel through what appear to be cam tacks 15, 16 the trailing spacer unit (with the projection 14) apparently would move towards the articles 3 while the leading spacer unit would continue retracted for a distance until point 16 is reached. The leading unit then would move into the position along the trailing spacer element. *See Fig. 1.* The leading and trailing elements then apparently would retract at the same time.

The cited reference thus fails to show the two modes of operation, i.e., a first mode in which the articles would be successively engaged and a second mode in which the articles would be simultaneously engaged. Rather, the reference apparently only shows successive engagement of the articles. No means of simultaneous engagement apparently are shown. The Applicant thus submits that Claim 1 and the dependent claims thereon are patentable over the cited reference.

The Applicant further traverses the rejection of dependent Claim 10 for the reasons described above. The Applicant further traverses the rejection on the grounds that the cited reference apparently does not have any indication that the speed of the spacer elements

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along the working reach may be alterable depending upon the number of articles and/or the mode of operation. Rather, Fig. 2 apparently only shows the use of a pair of element 5.

The Applicant further traverses the rejection of independent Claim 12 for the reasons described above. As with independent Claim 1, independent Claim 12 also recites the use of the two modes of operation. The cited reference clearly does not show such.

35 U.S.C. § 103:

Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the German reference in view of U.S. Patent No. 6,571,532 to Wienicki. The German reference was described as disclosing all of the claim limitations except for a controller. Wienicki was described as teaching a controller to perform the various functions of the packing device. The Applicant respectfully traverses the rejection for the reasons given above with respect to Claim 1.

Allowable subject matter:

The Applicant acknowledges that Claims 4-9 would be allowable if rewritten in independent form. The Applicant declines to do so at this time.

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CONCLUSION

The Applicant believes that it has responded to each matter raised in the Office Action. Allowance of all claims is respectfully solicited. Any questions can be directed to the undersigned at (404) 897-4421.

Respectfully submitted,



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